

EXHIBIT 4

Oakland: Body camera shows man screamed "I can't breathe" before death

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CORRECTION (Published 1/28/2016)

A story about the in-custody death of Hernan Jaramillo incorrectly reported that the Oakland Police Department did not issue an advisory about the incident. The department issued a news release July 8, 2013.

OAKLAND -- Face down with police pressing him to the sidewalk, 51-year-old Hernan Jaramillo wailed two refrains over and over before he died.

"They're killing me!" he howled 20 times in a 4-minute stretch.

"I can't breathe," he moaned again and again.

As the minutes passed, the cries grew softer until Jaramillo fell silent.

Jaramillo's last moments, captured on a police body camera in 2013 and unveiled this week, are a macabre tableau in which he can be heard imploring Oakland officers to let him up as his sister watched tearfully.

The video -- exclusively obtained by this newspaper but never released by police -- shows officers ignoring Jaramillo's pleas for help and continuing to restrain him, a tactic associated with in-custody deaths and sharply criticized after the 2014 death of Eric Garner in New York. Garner's family settled a lawsuit last year for \$5.9 million.

It raises questions about how Jaramillo -- who was never a suspect and has no criminal record in Alameda County -- ended up bloody, unconscious and eventually dead.

The police department did not respond to questions about the incident, including whether an internal investigation was conducted and if the department has policies on restraint and medical treatment.

Last week, Oakland settled a wrongful-death lawsuit for \$450,000. The city attorney's office referred questions about the settlement to the City Council.

Jaramillo's death was induced by a bizarre and disastrous chain of events

The catalyst was his sister calling police on July 8, 2013, at about 1:40 a.m. and reporting that she believed an intruder was trying to kill her brother.

When officers arrived, they found Jaramillo in a bedroom and no one else besides his sister present. When Jaramillo didn't obey commands to let them in, they handcuffed him.

In court filings, the city attorney argued that Jaramillo resisted when police attempted to put him in the squad car, refusing 20 requests by the officers.

Officers detained him because Jaramillo had blocked their efforts to investigate the incident and appeared to be having a mental health episode, the city argued.

In his deposition, Officer Ira Anderson said that while attempting to force Jaramillo into the car, he suddenly saw the man's hands were no longer handcuffed behind his back but out in front.

"I grabbed him by the shirt," Anderson said. "I brought him away from the car ... did a leg sweep and put him on the sidewalk."

Once Jaramillo hit the asphalt, the exact manner and length of restraint is unclear.

Officers said they held Jaramillo down by his arms and wrists.

But three witnesses said they saw an officer pressing a knee into Jaramillo's back.

John Peters, a former police officer and president of the Institute for the Prevention of In-Custody Deaths, said that when a suspect complains of breathing difficulties, restraint should immediately stop and medical treatment should begin.

"When a person is having a medical emergency, law enforcement needs to transfer that person from a suspect to a patient," Peters said.

On the body camera video, at least 6 minutes pass from when Jaramillo last yells and when medics arrive and begin CPR.

According to the paramedics' report, Jaramillo was in handcuffs and nonresponsive, with vomit in his airways, when they reached him.

He never regained consciousness.

An autopsy, conducted by Thomas Rogers, a doctor with the coroner's office, found the cause of death to be multiple drug intoxication associated with physical exertion.

Rogers said he found evidence of cocaine metabolites and alcohol in Jaramillo's blood.

He testified that there was no evidence of internal injuries and that Jaramillo had a compromised heart because of hardening arteries.

Attorney John Burris, who represented Jaramillo's relatives in the wrongful death lawsuit, said that an independent pathologist rejected that drugs were at play. He also said there was no evidence that Jaramillo had used cocaine that evening and that he believes the use of force by police killed him.

"People have been taught that you don't get on somebody's back and press down," Burris said.

The three officers named in the complaint were Anderson, Carlos Navarro and Steven Stout.

The Alameda County District Attorney does not investigate in-custody deaths that don't involve shootings.

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Oakland OK's \$450,000 to family of man killed in struggle with police

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Contra Costa Times

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OAKLAND -- Council members approved a \$450,000 settlement Tuesday with the relatives of an Oakland man who died in a struggle with police officers who mistook him for an intruder in his own home.

Hernan Jaramillo, 51, was under the influence of drugs and "making a great deal of noise" in his bedroom about 1:30 a.m. July 8, 2013 when his sister, Ana Biocini, called police to their East Oakland home thinking he was being attacked by an intruder, according to the complaint filed in federal court.

Biocini locked herself in her bedroom and threw her keys out her window to arriving officers Carlos Navarro and Ira Anderson, who promptly handcuffed Jaramillo, the complaint stated.

There was a struggle, according to the complaint, as the officers attempted to put Jaramillo in a patrol car, and then dragged him "20-feet on his back to the sidewalk."

The officers then pinned Jaramillo on his stomach as he screamed for help and warned that he was struggling to breathe, the complaint stated. Jaramillo became unresponsive shortly thereafter and was pronounced dead after paramedics arrived.

In announcing the settlement Tuesday, Supervising City Attorney Doryanna Moreno said that "the officers were not aware that Mr. Jaramillo was Ms. Biocini's brother when they took him into custody."

Attorney John Burris, who represented Biocini and her five surviving siblings, said the officers had been informed that Jaramillo wasn't an intruder before they tried to put him in the police car.

"This man was at his house and the police come, and he winds up dead," Burris said.

The Alameda County coroner attributed Jaramillo's death to a drug overdose, according to Burris. He said that an independent pathologist disputed whether there were enough drugs in Jaramillo's system to contribute to his death.

The council voted 6-0-1 to settle the case. Councilman Larry Reid was absent and Councilwoman Desley Brooks abstained.

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